§ 58-62-16. Definitions.

As used in this Article:

(1) "Account" means any of the two accounts created under G.S. 58-62-26.

(2) "Association" means the North Carolina Life and Health Insurance Guaranty Association created under G.S. 58-62-26.

(2a) "Authorized assessment" or the term "authorized" when used in the context of assessments means a resolution by the Board has been passed whereby an assessment will be called immediately or in the future from member insurers for a specified amount. An assessment is authorized when the resolution is passed.

(2b) "Benefit plan" means a specific employee, union, or association of natural persons benefit plan.

(3) "Board" means the board of directors of the Association established under G.S. 58-62-31.

(3a) "Called assessment" or the term "called" when used in the context of assessments means that a notice has been issued by the Association to member insurers requiring that an authorized assessment be paid within the time frame set forth within the notice. An authorized assessment becomes a called assessment when notice is mailed by the Association to member insurers.

(4) "Contractual obligation" means any obligation under a policy, contract, or certificate under a group policy, or contract, or part thereof, for which coverage is provided under G.S. 58-62-21.

(5) "Covered contract" or "covered policy" means any policy, contract, or portion of a policy or contract for which coverage is provided under G.S. 58-62-21.

(6) "Delinquent insurer" means an impaired insurer or an insolvent insurer; and "delinquency" means an insurer impairment or insolvency.

(6a) "Extra-contractual claims" shall include claims relating to bad faith in the payment of claims, punitive or exemplary damages, or attorneys' fees and costs.

(6b) "Health benefit plan" means any hospital or medical expense policy or certificate or health maintenance organization subscriber contract or any other similar health contract. "Health benefit plan" does not include any of the following:

a. Accident only insurance.
b. Credit insurance.
c. Dental only insurance.
d. Vision only insurance.
e. Medicare Supplement insurance.
f. Benefits for long-term care, home health care, community-based care, or any combination thereof.
g. Disability insurance.
h. Coverage for on-site medical clinics.
i. Specified disease, hospital confinement indemnity, or limited benefit health insurance if the types of coverage do not provide coordination of benefits and are provided under separate policies or certificates.

(7) "Health insurance" includes hospital or medical service corporation contracts, health maintenance organization subscriber contracts and certificates, accident and health insurance, accident insurance, and disability insurance.

(8) "Impaired insurer" means a member insurer that, after the effective date of this Article, is not an insolvent insurer, and (i) is deemed by the Commissioner to

be potentially unable to fulfill its contractual obligations or (ii) is placed under an order of rehabilitation or conservation by a court of competent jurisdiction.

(9) "Insolvent insurer" means a member insurer that, after the effective date of this Article, is placed under an order of liquidation with a finding of insolvency by a court of competent jurisdiction.

(10) "Insurance regulator" means the official or agency of another state that is responsible for the regulation of a foreign insurer.

(11) "Member insurer" means any insurer, health maintenance organization that is governed by Article 67 of this Chapter, and any hospital or medical service corporation that is governed by Article 65 of this Chapter and that is licensed or that holds a license to transact in this State any kind of insurance or health maintenance organization business for which coverage is provided under G.S. 58-62-21; and includes any insurer or health maintenance organization whose license in this State may have been suspended, revoked, not renewed or voluntarily withdrawn, but does not include a fraternal order or fraternal benefit society; mandatory State pooling plan; mutual assessment company or any entity that operates on an assessment basis; insurance exchange; or any entity similar to any of the foregoing.

(12) "Moody's Corporate Bond Yield Average" means the Monthly Average Corporates as published by Moody's Investors Service, Inc., or any successor thereto.

(12a) "Owner" of a policy or contract and "policyholder," "policy owner," and "contract owner" mean the person who is identified as the legal owner under the terms of the policy or contract or who is otherwise vested with legal title to the policy or contract through a valid assignment completed in accordance with the terms of the policy or contract and properly recorded as the owner on the books of the member insurer. The terms owner, contract owner, policyholder, and policy owner do not include persons with a mere beneficial interest in a policy or contract.

(13) "Person" includes an individual, corporation, limited liability company, partnership, association, governmental body or entity, or voluntary organization.

(14) "Plan" means the plan of operation established under G.S. 58-62-46.

(14a) "Plan sponsor" means any of the following:

a. The employer in the case of a benefit plan established or maintained by a single employer.

b. The employee organization in the case of a benefit plan established or maintained by an employee organization.

c. In a case of a benefit plan established or maintained by two or more employers or jointly by one or more employers and one or more employee organizations, the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan.

(15) Repealed by Session Laws 2018-120, s. 1.1(b), effective June 28, 2018.

(16) "Premiums" means amounts or considerations received on covered policies or contracts less returned premiums, considerations, and deposits, and less dividends and experience credits. "Premiums" does not include any amounts or considerations received for any policies, contracts, or portions of policies or contracts for which coverage is not provided under G.S. 58-62-21(b); except that assessable premium shall not be reduced on account of

G.S. 58-62-21(c)(3) relating to interest limitations and G.S. 58-62-21(d)(2) relating to limitations with respect to any one individual, any one participant, and any one policy or contract owner. Premiums shall not include premiums in excess of five million dollars ($5,000,000) on an unallocated annuity contract not issued under a governmental retirement benefit plan or its trustee established under Section 401, 403(b), or 457 of the United States Internal Revenue Code of 1954, or with respect to multiple nongroup policies of life insurance owned by one owner, whether the policy or contract owner is an individual, firm, corporation, or other person, and whether the persons insured are officers, managers, employees, or other persons, premiums in excess of five million dollars ($5,000,000) with respect to these policies or contracts, regardless of the number of policies or contracts held by the owner.

(16a) "Principal place of business" of a plan sponsor or a person other than a natural person means the single state in which the natural persons who establish policy for the direction, control, and coordination of the operations of the entity as a whole primarily exercise that function, determined by the Association in its reasonable judgment by considering the following factors:

a. The state in which the primary executive and administrative headquarters of the entity is located.
b. The state in which the principal office of the chief executive officer of the entity is located.
c. The state in which the board of directors or similar governing person or persons of the entity conducts the majority of its meetings.
d. The state in which the executive or management committee of the board of directors or similar governing person or persons of the entity conducts the majority of its meetings.
e. The state from which the management of the overall operations of the entity is directed.
f. In the case of a benefit plan sponsored by affiliated companies comprising a consolidated corporation, the state in which the holding company or controlling affiliate has its principal place of business as determined using the above factors. However, in the case of a plan sponsor, if more than fifty percent (50%) of the participants in the benefit plan are employed in a single state, that state shall be deemed to be the principal place of business of the plan sponsor. The principal place of business of a plan sponsor of a benefit plan described in G.S. 58-62-16(14a)c. shall be deemed to be the principal place of business of the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the benefit plan that, in lieu of a specific or clear designation of a principal place of business, shall be deemed to be the principal place of business of the employer or employee organization that has the largest investment in the benefit plan in question.

(16b) "Receivership court" means the court in the delinquent insurer's state having jurisdiction over the conservation, rehabilitation, or liquidation of the member insurer.

(17) "Resident" means any person who resides in this State when a member insurer is determined to be a delinquent insurer and to whom a contractual obligation is owed. A person may be a resident of only one state, which in the case of a person other than a natural person shall be its principal place of business.

"Resident" also means a U.S. citizen residing outside of the United States who owns a covered policy that was purchased from a member insurer while that person resided in this State. Citizens of the United States that are either (i) residents of foreign countries or (ii) residents of United States possessions, territories, or protectorates that do not have an association similar to the Association created by this Article shall be deemed residents of the state of domicile of the member insurer that issued the policies or contracts.

(17a) "Structured settlement annuities" means any contracts or certificates for annuities issued to fund, in whole or in part, a settlement agreement for a matter involving personal injury or illness, including any settlement agreement permitted under Chapter 97 of the General Statutes.

(17b) "State" means any state, the District of Columbia, Puerto Rico, and a United States possession, territory, or protectorate.

(17c) "Subaccount" means any of the subaccounts created under G.S. 58-62-26.

(17d) "Supplemental contract" means a written agreement entered into for the distribution of proceeds under a life, health, or annuity policy or contract.

(18) "Unallocated annuity contract" means any annuity contract or group annuity certificate that is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under the contract or certificate. (1991, c. 681, s. 56; 1993, c. 452, s. 60; 1995, c. 177, s. 1; 2009-448, s. 1; 2018-120, s. 1.1(b).)